

August 26, 2013



Talbot County Planning Commission
Final Decision Summary

Wednesday, July 3, 2013 at 9:00 a.m.

Bradley Meeting Room

11 N. Washington Street, Easton, Maryland

Attendance:

Commission Members:

Thomas Hughes, Chairman
William Boicourt
Michael Sullivan
John Trax
Paul Spies

Staff:

Sandy Coyman, Planning Officer
Mary Kay Verdery, Assistant Planning Officer
Brett Ewing, Planner I
Elisa Deflaux, Environmental Planner
Carole Sellman, Recording Secretary

1. Call to Order—Commissioner Hughes called the meeting to order at 9:00 a.m.

2. Decision Summary Review—The Commission reviewed the draft decision summary. Commissioner Spies moved to approve the draft Planning Commission Decision Summary for June 5, 2013 as submitted; Commissioner Boicourt seconded the motion. The motion carried unanimously.

3. Old Business

- a. Talbot County, Maryland—Recommendation to County Council—Forest harvest sign requirement and amendment to Chapter 128, Right to Farm of the Talbot County Code, to explicitly add silviculture, Sandy Coyman, Planning Officer

Mr. Coyman stated that after several meetings with representatives of the Sailors Retreat Homeowners Association and members of the logging and forestry community, the Commission made two recommendations to the County Council:

1. Provide notification to neighbors using a voluntary sign program.
2. Amend Chapter 128, the Right to Farm Act of the *Talbot County Code* to emphasize the fact that silviculture is specifically covered.

He noted the County Council met on March 26, 2013 and accepted the recommendation on the right to farm, but directed staff to prepare a mandatory sign requirement. Staff forwarded draft legislation to this effect to the Commission.

The draft legislation inserted silviculture in the Chapter 128 definitions, which is consistent with the state's silviculture definition. The mandatory sign requirement is addressed in the Table of Land Uses. Insertions were made to "Timber Harvest (commercial) 10 acres or larger" and "Timber Harvest (commercial) less than 10 acres". The permitted uses and special exception uses were unchanged. The sign

54 requirements mirror the requirements for Board of Appeals hearing postings, such
55 as length of time, how the sign is handled, and the responsibility of person who
56 picks up the sign. The sign itself would have the Planning and Permits
57 Department phone number and website reference. The website would include
58 forest harvest and permitting information.

59
60 Commissioner Hughes questioned if this is a public hearing or just the process of
61 formulating the legislation. Mr. Coyman stated this is the first draft for the
62 Commission review and approval. It is the Commission's option whether or not to
63 take public opinion today. Commissioner Hughes expressed concern that proper
64 procedures and public notice be provided. Staff indicated that this matter was
65 properly covered by the Commission's meeting notice. The Commission
66 concurred.

67
68 Commissioner Hughes asked the public to keep their comments to the current
69 issues and be brief and noted that the Commission will make a recommendation
70 only. Commissioner Hughes asked if there was any provision to notify a buyer of
71 any existing Conservation Reserve Program (CRP) contract at the time of
72 transaction. Commissioner Spies stated that agents generally disclose it because it
73 is an income source, however the program does not require this disclosure.

74
75 Commissioner Spies asked about the applicant purchasing a sign and displaying it
76 as needed. This would avoid the administrative issues and potential fine. Mr.
77 Ewing explained that the issuing process for County signs provides a tracking
78 mechanism. Commissioner Spies stated that the Commission recommended a
79 voluntary sign approach to improve relationships between the logging community
80 and neighbors.

81
82 Commissioner Hughes asked for public comments.

83
84 Anne Bellinger, of Oxford, Maryland, stated she objected to permitting logging so
85 close to residential properties and such activity is dangerous. She also noted the
86 disclosure by realtors could be improved.

87
88 Tom Alspach, Oxford, Maryland, asked about the draft bill's notification
89 requirements. Mr. Coyman explained the applicant is required to post the sign 15
90 days in advance and maintain it until the harvest is complete. The posting
91 requirements mimic the Board of Appeals sign requirement, the sign must be
92 visible, centered on property, and abutting road. It will be the responsibility of the
93 applicant to prove and document full compliance with posting requirements and
94 must return the sign within 5 calendar days after conclusion of posting period.
95 There is a \$50.00 fine per day for late returns and applicant will be responsible for
96 full price of sign if lost or damaged.

97
98 Mr. Alspach stated that the sign should be posted for 30 or more days before a
99 harvest. This would permit neighbors an opportunity to negotiate for mitigation.

100
101 Louis Codispoti, Oxford, Maryland, former President Sailors Retreat
102 Homeowners Association. Mr. Codispoti thanked County Council and its staff,
103 Planning Commission and all attendees. Mr. Codispoti seconds the comments of
104 his neighbors. He believes a voluntary signage program would be ineffective; it
105 should be mandatory. Mr. Codispoti believes the logging community desires no
106 additional regulation.

107
108 Alan Johnson, Easton, Maryland, Johnson Lumber Company, doesn't believe
109 putting up signs will be beneficial to harvests remote from residences. Mr.
110 Johnson suggested we look to other counties and states that are less restrictive.

111
112 Lewis Smith, Easton, Maryland, representing Farm Bureau and self as landowner.
113 He believes that the County would jeopardize farmers' livelihood with this bill.
114 The Talbot County Farm Bureau's policy states local government is precluded
115 from regulating agricultural practices as they are regulated by state and federal
116 mandates. Forestry is already heavily regulated. He suggested foresters seek
117 lumber mills that can chip the lap.

118
119 Jeanne Bryan, Royal Oak, farm owner, speaking on behalf of property owners and
120 farmers. She believes the legislation encroaches on property rights. Ms. Bryan felt
121 if a neighbor was concerned about a buffer it was their opportunity to reach out to
122 landowner to purchase buffers. As a farmer she has a right to harvest timber and
123 plant corn and soybeans without putting a sign up. Forestry is same type of
124 farming as if you were putting corn in the fields. It is temporality unattractive but
125 grows back.

126
127 Lingan T. Spicek, Church Creek, Dorchester County, Forester and operator, bids
128 on timber tracts in Talbot County. He is not aware of any complaints about his
129 harvests. When he receives permits from the State a sign off is required stating
130 that the best practices will be employed. Signage in many cases would discourage
131 land owners from logging and would damage the local forestry industry. Mr.
132 Spicek stated logging is weather dependent and delay can impede his
133 competitiveness.

134
135 Dan Rider, Program Manager with the Maryland Forest Service. Forest Service
136 uses signs extensively. We would suggest any signage program that the County
137 consider would be voluntary and could be customized to the situation. Would
138 suggest a sign be placed coincident and retained on the site following the harvest.
139 Over 90% of all forest land in Talbot County is located outside of populated
140 areas.

141
142 Theresa ("Teri") Batchelor, Upper Shore Project Manager and Forrester for the
143 four upper shore Counties Caroline, Talbot, Kent and Queen Anne's, Maryland
144 Forest Service. Our operators are good and strong for the most part. In Queen
145 Anne in the Critical Area signs are mandatory, other areas they are voluntary.

Slash decomposes and becomes fertilizer for new growth and prevents erosion. Ms. Batchelor stated that forest practices are designed to sustain forest health over the long term.

Greg Gannon, Easton, Maryland, noted there have been few complaints about logging. This exercise seems to be about one complaint. The sign requirement may lead to legal delays and this would be a further impediment to the local logging industry. He suggested notice in the tax bill stating if they adjoin timberland to alert the property owner to be proactive.

A majority of the Commission believes that the sign requirement should be voluntary. If the sign is mandatory, not all logging projects would necessarily be in an area that would require signage. The Commission discussed the possibility of only requiring signs for harvests near residences. Staff will provide maps exploring this approach.

Time for posting, was also identified as an issue that must be addressed. The sub issues include length of posting before or during harvest.

Commissioner Boicourt moved to table this matter for consideration of issues and alternatives to address them, seconded by Commissioner Trax. The motion carried unanimously.

4. New Business

- a. One Year Extension Request—Donald Foster, #M1140—Gross Coate and Todds Corner Roads, Easton, Maryland 21601, (map 9, grid 22, parcel 7, Lot 7, zoned Rural Conservation/Western Rural Conservation), Elizabeth Fink, Fink, Whitten & Associates, LLC, Agent.

Mr. Ewing stated the Staff has no objection to the one year extension. Elizabeth Fink of Fink, Whitten and Associates, LLC appeared on behalf of Donald Foster. Ms. Fink explained an extension was needed because they were waiting for soil percolation test results.

Commissioner Hughes asked for public comments; none were made.

Commissioner Trax moved to recommend to the Planning Officer to approve the One Year Extension for sketch major 12 lot subdivision with three private roads for Donald D. Foster and Ellen Marie Foster, at Gross Coate and Todds Corner Roads, provided compliance with staff recommendations occurs, Commissioner Boicourt seconded. The motion carried unanimously.

- b. Administrative Variance—Walter H. Parsons, III and Mary Ann Parsons, #A191—407 Bentley Avenue, St. Michaels, Maryland 21663, (map 201, parcel 1240, zoned Town Residential), Charles Paul Goebel, Architect, Ltd., agent.

Mr. Ewing presented the staff report for the applicant's request for a pervious 432 square foot deck and step expansion. No new gross floor area is proposed. The proposed expansion will be located no closer to mean high water than the existing dwelling at 33 feet.

The Critical Area Commission believes the variance request exceeds the minimum necessary to relieve the unwarranted hardship due to an existing second story deck which exists on the site. Should the administrative variance be granted, Staff suggests compliance with the following conditions:

1. The applicant shall make a building permit application to the Office of Planning and Permits and follow all rules, procedures, and construction timelines as outlined by regarding new construction.
2. The applicant shall commence construction on the proposed improvements within eighteen (18) months from the date of the Planning Office's "Notice to Proceed".
3. The applicant shall build the deck to meet the Maryland Chesapeake Bay Critical Area Commission's standards for pervious decks as follows:
 - a. Install decking with a minimum of 1/4" spacing between the decking strips;
 - b. Install approved native plants around the perimeter of the deck to minimize runoff.

Commissioner Hughes was perplexed by the Critical Area Commission letter. He stated this project was ordinary and in bounds. Mr. Ewing stated County Staff has the same position. Commissioner Boicourt stated the deck is pervious.

Walter Parsons appeared before the Commission and stated that currently they have a small deck. The current deck is rotten and needs to be replaced. If built according to critical area code, the deck should have minimal impact on the Bay.

Commissioner Hughes asked for public comments; none were made. Commissioner Boicourt moved to approve the administrative variance for Walter H. Parsons, III and Mary Ann Parsons, 407 Bentley Avenue, St. Michaels, Maryland, with staff conditions, seconded by Commissioner Sullivan. The motion carried unanimously.

- c. Peter L. Councell and Karaleen J. Councell, #M1149—MD Route 328 (Matthewstown Road) (map 19 and 27, grid 21 and 3, parcel 34 and 25, zoned Agricultural Conservation), William Ewald, McCrone, Inc., agent.

Mr. Ewing presented the staff report for the applicant's request for final plat review of a three lot subdivision with a private road. All lots will have access from the proposed forty-foot wide private road which is identified as Guinea Ridge Drive and the remaining development rights are assigned to the parent

parcel. At the last Commission meeting, there was a concern that the building envelope of lot 4 was not contiguous and did not comply with the minimum 200 foot lot width. The applicant has since complied with the zoning ordinance and the parcel now has a contiguous building envelope.

Staff recommendations include:

1. Address the June 12, 2013 Technical Advisory Committee comments of Planning and Permits, Department of Public Works, Environmental Health Department, Talbot Soil Conservation District and the Environmental Planner prior to Compliance Review Meeting submittal.

Mr. Ewald appeared with Mr. and Mrs. Peter Councill. There were no additional comments.

Commissioner Hughes asked for public comments; none were made.

Commissioner Boicourt moved to approve the major three lot subdivision with private road for Peter Councill, Matthewstown Road (Route 328), provided all staff recommendations are addressed; seconded by Commissioner Trax. The motion carried unanimously.

- d. Talbot County Planning and Permits—Review and take action on the Maryland Department of Planning Annual Development Report, Sandy Coyman, Planning Officer.

Mr. Coyman presented an overview of the 2012 Annual Development Report. Again this year Talbot County fell below the standard for development of additional indicators of 50 or more new residential building units issued. The second section talks about development patterns, changes to ordinances, roads and new schools. It lists new subdivisions, parcels and new parcels within and outside priority funding areas. There were nine new lots in priority funding areas and six outside.

New residential building permits were 18. Changes in text amendments to development density for villages and septic tier system were adopted and noted in the report along with the update work for the comprehensive plan.

Commissioner Hughes noted that the state adopted a 10 year comprehensive plan review period; Mr. Coyman advised that a five year “check up” report on implementation is required. He stated that Talbot County is required to report a percentage as a target new lots to be located within priority funding areas. The County’s effective growth management strategy in our comprehensive plan and zoning ordinance coordinated with local jurisdictions growth plans makes such a target superfluous. Most growth by design locates in the municipalities. County

development is small in number and of a rural nature. County growth is also limited by the state's septic tier legislation.

Priority funding areas within County jurisdiction are the villages and these are not intended as growth centers. Given all this, identifying a percentage target for growth within priority funding areas serves no policy purpose.

Mr. Coyman related that the Planning Commission creates and adopts the Annual Report. It then goes to the County Council who are responsible to take any actions needed to implement the comprehensive plan.

Commissioner Hughes asked about Line 67, Development Capacity Analysis, and if that is for the unincorporated part of the County, and why we have to come up with a growth capacity analysis for the unincorporated non-priority funding area parts of the County. Mr. Coyman explained this is something the development industry lobbied for at the state level.

Commissioner Sullivan moved to approve the Draft 2012 Annual Development Report as submitted July 3, 2013, Commissioner Spies seconded the motion. The motion carried unanimously.

5. Discussions Items

Mr. Coyman asked the Commission if they believed it appropriate to pursue a text amendment addressing permitting kayak launching docks on community piers. This would require permitting additional platform area for such docks.

Ms. Verdery expressed concern about expanding existing nonconforming docks. She recommended we amend the square footage limits for portions of the dock which are considered part of the platform limit and/or increasing the permitted square footage limits for community pier platforms

In the State legislation the platform is the end deck area, they do not include in their 200 square foot limitation finger piers or floating docks. In our County legislation the finger piers and floating docks are counted as part of the platform area. Commissioner Boicourt recommends we consider both. We want to keep the visual clutter at a minimum.

6. Staff Matters – None.

7. WorkSessions - None.

8. Commission Matters – None.

9. Adjournment—Commissioner Hughes adjourned the meeting at 11:16 a.m.